

the granting of appropriations authority to the Senate Intelligence Committee. This effort to reform and improve congressional oversight has a long bipartisan history. It began as an amendment offered by Senator McCain to the 2004 reorganizing resolution that accompanied the intelligence reform bill. And, in the last Congress, this resolution was introduced by Senator Burr. It should also be noted that it has the same bipartisan set of cosponsors as it did last year, despite the change of administration. This underscores the principle that effective congressional oversight is neither a partisan nor political issue and that it has nothing to do with who the President is. It is about ensuring that the Intelligence Community is keeping America safe, complying with the Constitution and laws of our country, and using taxpayer dollars in an appropriate manner.

Next month will mark the 5th anniversary of the release of the 9/11 Commission's report. The country is by now familiar with the many recommendations of the Commission that have been implemented, including the establishment of the DNI and the National Counterterrorism Center. Yet, the Commission stressed that, "Of all our recommendations, strengthening congressional oversight may be among the most difficult and important."

In November 2007, Lee Hamilton, the former Vice Chairman of the Commission testified to the Senate Intelligence Committee on behalf of himself and former Chairman Tom Kean and again emphasized what needs to be done. He testified that:

The single most important step to strengthen the power of the intelligence committees is to give them the power of the purse. Without it, they will be marginalized. The intelligence community will not ignore you, but they will work around you. In a crunch, they will go to the Appropriations Committee. Within the Congress, the two bodies with the jurisdiction, time and expertise to carry out a careful review of the budget and activities of the Intelligence Community are the Senate and House intelligence committees. Yet all of us have to live by the Gold Rule: That is, he who controls the Gold makes the Rules.

The testimony of the former Chairman and Vice Chairman highlighted three practical examples of why this particular reform is so critical. First, if and when the U.S. goes to war, the decision will ride largely on intelligence—and oversight is critical to ensuring that the intelligence community gets it right. Second, oversight is necessary to safeguard the privacy and civil liberties of Americans in an age of enhanced collection capabilities and data mining. Third, the success of intelligence reform requires sustained congressional oversight.

Vigorous, effective, independent congressional oversight is fundamental to the checks and balances of our constitutional system. In recent years, we have seen outright contempt for this oversight, particularly as the previous

administration sought to hide the CIA's detention and interrogation and the NSA's warrantless wiretapping programs from Congress. But the inauguration of a new president has not removed all impediments to effective oversight, nor is it a guarantee that serious abuses won't occur in the future. That is why the implementation of this reform is just as important as ever and why this resolution has bipartisan support.

In the end, this reform is not just about our constitutional system, as important as that is. It is about how best to protect the American people. As Lee Hamilton testified, "the strong point simply is that the Senate of the U.S. and the House of the U.S. is not doing its job. And because you are not doing the job, the country is not as safe as it ought to be, because one of my premises is that robust oversight is necessary for a stronger intelligence community."

The implementation of this reform is long overdue. It has been more than seven and a half years since the attacks of 9/11, almost 5 years since the 9/11 Commission made this recommendation, and a year and a half since the Senate Intelligence Committee heard directly from former Chairman Hamilton and former Vice Chairman Kean. There should be no more excuses, or delays.

SENATE RESOLUTION 165—TO ENCOURAGE RECOGNITION OF 2009 AS THE "YEAR OF THE MILITARY FAMILY"

Mr. LEVIN (for himself, Mr. McCain, Mr. Nelson of Nebraska, and Mr. Graham) submitted the following resolution; which was considered and agreed to:

S. RES. 165

Whereas there are more than 1.8 million family members of regular component members of the Armed Forces and an additional 1.1 million family members of reserve component members;

Whereas slightly more than half of all members of the regular and reserve components are married, and just over 40 percent of military spouses are 30 years or younger and 60 percent of military spouses are under 36 years of age;

Whereas there are nearly 1.2 million children between the ages of birth and 23 years who are dependents of regular component members, and there are over 713,000 children between such ages who are dependents of reserve component members;

Whereas the largest group of minor children of regular component members consist of children between the ages of birth and 5 years, while the largest group of minor children of reserve component members consist of children between the ages of 6 and 14 years;

Whereas the needs, resources, and challenges confronting a military family, particularly when a member of the family has been deployed, vastly differ between younger age children and children who are older;

Whereas the United States recognizes that military families are also serving their country, and the United States must ensure that all the needs of military dependent children

are being met, for children of members of both the regular and reserve components;

Whereas military families often face unique challenges and difficulties that are inherent to military life, including long separations from loved ones, the repetitive demands of frequent deployments, and frequent uprooting of community ties resulting from moves to bases across the country and overseas;

Whereas thousands of military family members have taken on volunteer responsibilities to assist units and members of the Armed Forces who have been deployed by supporting family readiness groups, helping military spouses meet the demands of a single parent during a deployment, or providing a shoulder to cry on or the comfort of understanding;

Whereas military families provide members of the Armed Forces with the strength and emotional support that is needed from the home front for members preparing to deploy, who are deployed, or who are returning from deployment;

Whereas some military families have given the ultimate sacrifice in the loss of a principal family member in defense of the United States; and

Whereas 2009 would be an appropriate year to designate as the "Year of the Military Family"; Now, therefore be it

Resolved by the Senate, That the Senate—

(1) expresses its deepest appreciation to the families of members of the Armed Forces who serve, or have served, in defense of the United States;

(2) recognizes the contributions that military families make, and encourages the people of the United States to share their appreciation for the sacrifices military families give on behalf of the United States; and

(3) encourages the people of the United States and the Department of Defense to observe the "Year of Military Family" with appropriate ceremonies and activities.

SENATE RESOLUTION 166—TO AUTHORIZE THE PRINTING OF A COLLECTION OF THE RULES OF THE COMMITTEES OF THE SENATE

Mr. SCHUMER submitted the following resolution; which was considered and agreed to:

S. RES. 166

Resolved, That a collection of the rules of the committees of the Senate, together with related materials, be printed as a Senate document, and that there be printed 300 additional copies of such document for the use of the Committee on Rules and Administration.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1225. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table.

SA 1226. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1227. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1228. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 1256, *supra*; which was ordered to lie on the table.

SA 1229. Mr. DORGAN (for himself, Ms. SNOWE, Mr. MCCAIN, Ms. STABENOW, Mr. SANDERS, and Ms. KLOBUCHAR) submitted an amendment intended to be proposed by him to the bill H.R. 1256, *supra*; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1225. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ____ . MARIJUANA.

(a) IN GENERAL.—The Secretary of Health and Human Services shall—

(1) require that if a State permits the use of marijuana without adhering to the established legal processes associated with the Federal Food, Drug, and Cosmetic Act, the State-permitted marijuana shall be subject to the full regulatory requirements of the Food and Drug Administration, including a risk evaluation and mitigation strategy and all other requirements and penalties of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) regarding safe and effective reviews, approval, sale, marketing, and use of pharmaceuticals; and

(2) require that any State-permitted marijuana likely to be offered to, or purchased by, consumers as marijuana intended to be consumed as a cigarette will be subject to section 900 of the Federal Food Drug and Cosmetic Act (as amended by section 101).

(b) MODIFICATION OF STATE LAWS.—

(1) IN GENERAL.—Section 1926 of the Public Health Service Act (42 U.S.C. 300x-26) is amended—

(A) in the section heading, by inserting “**AND MARIJUANA**” after “**TOBACCO**”;

(B) in subsection (a)(1), by inserting “or marijuana” after “tobacco”; and

(C) in subsection (b)—

(i) in paragraph (1), by inserting “and marijuana” after “tobacco”; and

(ii) in paragraph (2)(B)(i), by inserting “and marijuana” after “tobacco”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to State laws beginning in fiscal year 2010, except that in the case of a State whose legislature does not convene a regular session in fiscal year 2009, such amendments shall apply beginning in fiscal year 2011.

SA 1226. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A insert the following:

SEC. ____ . INDEPENDENT STUDY OF FEDERAL TOBACCO REGULATORY ACTIVITIES EFFECTIVENESS.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Comptroller General of the United States shall—

(1) develop performance measures for the Food and Drug Administration's regulatory activities with respect to tobacco; and

(2) recommend program evaluations that should be conducted for programs and activities related to tobacco regulation that are administered by the Food and Drug Administration.

(b) CONTENTS.—The performance measures developed under subsection (a) shall—

(1) to the maximum extent practicable draw on research-based, quantitative data;

(2) take into account program and activity purpose and design;

(3) include criteria to evaluate the cost effectiveness of programs and activities conducted by the Food and Drug Administration related to tobacco;

(4) include criteria to evaluate the administration and management of programs and activities conducted by the Food and Drug Administration related to tobacco;

(5) include criteria to evaluate harm-reduction strategies approved by the Food and Drug Administration;

(6) include criteria to evaluate whether consumers are better informed relating to health and dependency effects or safety of tobacco;

(7) include criteria to evaluate if the Food and Drug Administration's programs make tobacco less accessible to minors; and

(8) include criteria to evaluate whether the Food and Drug Administration's programs have encouraged smoking cessation and reduced tobacco-related disease

(c) REPORT.—Not later than 2 years after the development of the performance measures under subsection (a), and every 5 years thereafter, the Comptroller General of the United States shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report containing an assessment of each such program and activity with respect to the performance measures and program evaluations developed under subsection (a).

SA 1227. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

Beginning in section 102(a) of division A, strike paragraph (5) and all that follows through section 103(g) of such division and insert the following:

(5) ENFORCEMENT.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall ensure that the provisions of this Act, the amendments made by this Act, and the implementing regulations (including such provisions, amendments, and regulations relating to the retail sale of tobacco products) are enforced with respect to the United States.

(B) INDIAN TRIBES.—The Secretary of Health and Human Services shall ensure that

the provisions of this Act, the amendments made by this Act, and the implementing regulations (including such provisions, amendments, and regulations relating to the retail sale of tobacco products) apply to, and are enforced with respect to, Indian tribes.

(6) QUALIFIED ADULT-ONLY FACILITY.—A qualified adult-only facility (as such term is defined in section 897.16(d) of the final rule published under paragraph (1)) that is also a retailer and that commits a violation as a retailer shall not be subject to the limitations in section 103(q) and shall be subject to penalties applicable to a qualified adult-only facility.

(7) CONGRESSIONAL REVIEW PROVISIONS.—Section 801 of title 5, United States Code, shall not apply to the final rule published under paragraph (1).

(b) LIMITATION ON ADVISORY OPINIONS.—As of the date of enactment of this Act, the following documents issued by the Food and Drug Administration shall not constitute advisory opinions under section 10.85(d)(1) of title 21, Code of Federal Regulations, except as they apply to tobacco products, and shall not be cited by the Secretary of Health and Human Services or the Food and Drug Administration as binding precedent:

(1) The preamble to the proposed rule in the document titled “Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents” (60 Fed. Reg. 4314–4372 (August 11, 1995)).

(2) The document titled “Nicotine in Cigarettes and Smokeless Tobacco Products is a Drug and These Products Are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act” (60 Fed. Reg. 41453–41787 (August 11, 1995)).

(3) The preamble to the final rule in the document titled “Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents” (61 Fed. Reg. 44396–44615 (August 28, 1996)).

(4) The document titled “Nicotine in Cigarettes and Smokeless Tobacco is a Drug and These Products Are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act; Jurisdictional Determination” (61 Fed. Reg. 44619–45318 (August 28, 1996)).

SEC. 103. CONFORMING AND OTHER AMENDMENTS TO GENERAL PROVISIONS.

(a) AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Except as otherwise expressly provided, whenever in this section an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference is to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended—

(1) in subsection (a), by inserting “tobacco product,” after “device,”;

(2) in subsection (b), by inserting “tobacco product,” after “device,”;

(3) in subsection (c), by inserting “tobacco product,” after “device,”;

(4) in subsection (e)—

(A) by striking the period after “572(i)”;

and

(B) by striking “or 761 or the refusal to permit access to” and inserting “761, 909, or 920 or the refusal to permit access to”;

(5) in subsection (g), by inserting “tobacco product,” after “device,”;

(6) in subsection (h), by inserting “tobacco product,” after “device,”;

(7) in subsection (j)—

(A) by striking the period after “573”; and

(B) by striking “708, or 721” and inserting “708, 721, 904, 905, 906, 907, 908, 909, or 920(b)”;

(8) in subsection (k), by inserting “tobacco product,” after “device,”;